REMARKS

Applicants appreciate the thorough review of the present application as evidenced by the Final Official Action. The Final Official Action has rejected Claims 1, 2, 4-15, 17-28, and 30-39 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,418,413 to DeMarcken et al. in view of U.S. Patent No. 5,978,770 to Waytena et al.

As explained more fully below, independent Claims 1, 14, and 27, as well as their respective dependent claims, are patentably distinguishable from the cited references. Independent Claims 8, 21, and 34 have been amended to include the recitations of respective dependent Claims 9, 11, 22, 24, 35, and 37. Accordingly, Claims 9, 11, 22, 24, 35, and 37 have been cancelled. Applicants submit that none of the amendments raise new issues as the amendments have been made to incorporate the recitations of dependent claims that were previously indicated to include allowable subject matter. In view of the claim amendments and subsequent remarks which do not raise new issues, Applicants respectfully request reconsideration and allowance of the claims.

A. The Rejection of Claims 1, 14, and 27 under 35 U.S.C. § 103(a) is Overcome

The DeMarcken '413 patent describes a travel planning system that can receive travel requests, such as flight travel requests, and produce a set of flights that can satisfy the request. The Waytena '770 patent discloses a system and method for assigning and managing patron reservations, such as patrons in an amusement park. As presented in our previous response, Applicants submit that the DeMarcken '413 patent cannot properly be combined with the Waytena '770 patent since the requisite motivation and suggestion to make the combination is lacking. The Examiner finds that "both references are teaching systems that are utilized the [sic] help consumers make reservations, whether it be for travel or amusement" and, thus, can be properly combined. With respect to the motivation and suggestion to combine the DeMarcken '413 and Waytena '770 patents, the Examiner believes that "both references are indeed predicting the availability of seats, whether for travel or amusement rides." In addition, the

Examiner finds that the Waytena '770 patent accounts for the deficiencies of the DeMarcken '413 patent to make the prediction "more solid."

However, providing availability of airline seats, as disclosed in the DeMarcken '413 patent, is a distinctly different problem than assigning and managing patron reservations for distributed services, as disclosed in the Waytena '770 patent. The patron reservations disclosed in the Waytena '770 patent are directed to those environments where patrons are waiting in line or have a reserved time or location for a particular attraction. One skilled in the art of airline travel, let alone travel generally, would most likely not look to services such as the amusement parks, shows, restaurants, and sporting events to solve the complex problem relating to providing availability of airline seats.

Moreover, the Examiner finds that because proposed reservation times may be stored in a virtual queue of the PCD, and the patron may reject or confirm the reservation within a predefined time period, "Waytena indeed teaches that a prediction is made that the candidate itinerary (i.e. reservation [sic] will remain available for booking for a period of time in the future, which can be a minute, a day, or a month, etc." However, the Waytena '770 patent does not provide a solution to the problem addressed by the DeMarcken '413 patent of determining the likelihood that seats will currently be available and, instead, addresses a different problem of the wait time required to move through a line and providing a virtual queue so that a patron is not required to physically wait in line. Since seats are only available in instances in which there is no waiting line of any length, there is no motivation or suggestion to modify or supplement the seat availability predictor technique of the DeMarcken '413 patent with the technique for estimating a waiting time as disclosed by the Waytena '770 patent.

In any event, even if the references were combined, independent Claims 1, 14, and 27 of the present application are patentably distinct from the cited references, taken either individually or in combination. The Examiner acknowledges that the DeMarcken '413 patent does not teach or suggest determining a probability that the candidate itinerary will remain available for booking for a period of time in the future based at least in part upon the current availability and historical availability information for the candidate itinerary, as recited in independent Claims 1, 14, and 27. However, the Examiner finds that this particular recitation is disclosed by the

combination of the DeMarcken '413 patent with the Waytena '770 patent. In particular, the Examiner states that "[i]t is respectfully submitted that Waytena does not have to address actually providing a probability because DeMarcken provides the probability and Waytena is modifying DeMarcken so that more information can be taken in account to make a reservation/probability of reservation."

Applicants respectfully disagree that the combination of the DeMarcken '413 patent and the Waytena '770 patent teaches or suggests determining a probability that the candidate itinerary will remain available for booking for a period of time in the future based at least in part upon the current availability information and historical availability information for the candidate itinerary, as recited by independent Claims 1, 14, and 27. Although the Waytena '770 patent discloses estimating when an attraction will become available for purposes of making a reservation, Waytena does not teach or suggest determining a probability that the reservation will remain available for booking for a period of time in the future. Instead, Waytena is concerned with the exact opposite issue, that is, the unavailability of (or, in other words, the wait time for) an attraction. In addition, even though the Waytena '770 patent discloses that the application computer may provisionally store a reservation time in the virtual queue while the proposed time is forwarded to a patron's PCD for confirmation or rejection, Waytena does not teach or suggest determining a probability as to how long the reservation will remain available for booking in the future. In fact, there is no need to predict a probability that the reservation time will remain available for booking in the future, as the patron is given a fixed period of time to either accept or reject the proposed reservation time.

The Examiner finds that the DeMarcken '413 patent discloses determining a probability of availability of seats, while the Waytena '770 patent discloses "a prediction of an available seat for 'a period of time in the future," which makes "the prediction more solid." However, the Waytena '770 patent is not making a *prediction* concerning availability of a seat at all. In contrast, the Waytena '770 patent allows a patron to limit the amount of time wasted actually waiting in line by making a reservation for an attraction through a virtual queue, and there is no information provided to the patron regarding a prediction of the availability of a seat at the

attraction. Either the reservation is accepted or rejected by the patron – there is no need to make a prediction.

Furthermore, the Examiner believes that allowing a patron to provisionally store a reservation time in the virtual queue along with a proposed reservation time for confirmation or rejection "is characteristic of determining an availability for the broad 'period of time in the future.'" However, this statement over generalizes the recitation of independent Claims 1, 14, and 27, as the claims require a *probability* that the candidate itinerary will remain available for booking for a period of time in the future. The Examiner is effectively picking and choosing elements from the claims, which appears to be impermissible hindsight in light of the references cited. The claimed invention provides travelers with the option of immediately purchasing or deferring the decision to purchase a candidate itinerary based on a probability that the reservation will remain available for booking in the future. In this regard, the traveler is able to monitor the status of a candidate itinerary without purchasing or placing the itinerary on hold. This is entirely different than that disclosed in the Waytena '770 patent, where a reservation is either confirmed or rejected.

Therefore, the method, system, and computer-readable medium of independent Claims 1, 14, and 27, and those claims that depend therefrom, are not taught or suggested by the cited references, taken either individually or in combination, for at least the reasons described above. Thus, the rejection of Claims 1, 14, and 27 under 35 U.S.C. § 103(a) is also overcome.

B. The Rejection of Claims 8, 21, and 34 under 35 U.S.C. § 103(a) is Overcome

The Final Official Action indicates that dependent Claims 11-13, 24-26, and 37-39 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form to include each of the recitations of the base claim and any intervening claims. In order to expedite prosecution, independent Claims 8, 21, and 34 have been amended as suggested by the Examiner. In particular, independent Claim 8 has been amended to include the recitations of dependent Claims 9 and 11, independent Claim 21 has been amended to include the recitations of dependent Claims 22 and 24, and independent Claim 34 has been amended to

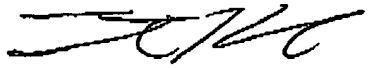
include the recitations of dependent Claims 35 and 37. Therefore, Applicants submit that independent Claims 8, 21, and 34 are now in condition for allowance.

CONCLUSION

Applicants appreciate the Examiner's review of the forgoing remarks which do not raise new issues. In view of the amended claims and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9306 on the date shown below.

Lisa A. Rone — 5/9/05

Lisa Rone — Date

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